

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 WILLIAM FREDERICK JENSEN,

10 Plaintiff,

11 v.

12 STATE OF WASHINGTON, et al.,

13 Defendants.

CASE NO. C16-1963 RSM-BAT

**ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT**

14 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. The Court, having
15 reviewed plaintiff's amended complaint (Dkt. 32), hereby **ORDERS** as follows:

16 (1) Service by Clerk

17 The Clerk is directed to send the following to the named defendants **by e-mail**: State of
18 Washington, Washington Department of Corrections, Eldon Vail, Bernard Warner, Stephen
19 Sinclair, Eugene Medutis, and Steven D. Sundberg, copies of plaintiff's amended complaint, this
20 Order, the notice of lawsuit and request for waiver of service of summons, and a waiver of
21 service of summons.

22 (2) Response Required

23 Defendants shall have **thirty (30) days** within which to return the enclosed waiver of
service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**

1 **days** after the date designated on the notice of lawsuit to file and serve an answer to the
2 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

3 A defendant who fails to timely return the signed waiver will be personally served with a
4 summons and complaint, and may be required to pay the full costs of such service, pursuant to
5 Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been personally
6 served shall file an answer or motion permitted under Rule 12 within **thirty (30) days** after
7 service.

8 (3) Filing and Service by Parties, Generally

9 All attorneys admitted to practice before this Court are required to file documents
10 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
11 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.

12 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
13 with the Clerk. All filings, whether filed electronically or in traditional paper format, must
14 indicate in the upper right hand corner the name of the magistrate judge to whom the document
15 is directed.

16 For any party filing electronically, when the total of all pages of a filing exceeds fifty
17 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as
18 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be
19 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

20 Any document filed with the Court must be accompanied by proof that it has been served
21 upon all parties that have entered a notice of appearance in the underlying matter.
22
23

1 (4) Motions, Generally

2 Any request for court action shall be set forth in a motion, properly filed and served.

3 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
4 part of the motion itself and not in a separate document. The motion shall include in its caption
5 (immediately below the title of the motion) a designation of the date the motion is to be noted for
6 consideration upon the Court's motion calendar.

7 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for
8 reconsideration, joint submissions pursuant to the option procedure established in

9 LCR 37(a)(2), motions for default, requests for the clerk to enter default judgment, and
10 motions for the court to enter default judgment where the opposing party has not appeared shall
11 be noted for consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive
12 motions shall be noted for consideration no earlier than the third Friday following filing and
13 service of the motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration
14 no earlier than the fourth Friday following filing and service of the motion. *Id.*

15 For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-
16 dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday
17 immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro*
18 *se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's
19 office by 4:30 p.m. on the Monday preceding the date of consideration.

20 The party making the motion may file and serve, not later than 11:59 p.m. (if filing
21 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date
22 designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.
23

1 (5) Motions to Dismiss and Motions for Summary Judgment

2 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
3 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
4 Procedure should acquaint themselves with those rules. As noted above, these motions shall be
5 noted for consideration no earlier than the fourth Friday following filing and service of the
6 motion.

7 Defendants filing motions to dismiss or motions for summary judgment are advised that they
8 MUST serve a *Rand* notice concurrently with motions to dismiss based on a failure to exhaust
9 and motions for summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and
10 adequate notice of what is required of them in order to oppose those motions. *Woods v. Carey*,
11 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth model language for such
12 notices:

13 A motion for summary judgment under Rule 56 of the Federal Rules of
14 Civil Procedure will, if granted, end your case.

15 Rule 56 tells you what you must do in order to oppose a motion for summary
16 judgment. Generally, summary judgment must be granted when there is no
17 genuine issue of material fact – that is, if there is no real dispute about any
18 fact that would affect the result of your case, the party who asked for
19 summary judgment is entitled to judgment as a matter of law, which will
20 end your case. When a party you are suing makes a motion for summary
21 judgment that is properly supported by declarations (or other sworn
22 testimony), you cannot simply rely on what your complaint says. Instead,
23 **you must set out specific facts in declarations, depositions, answers to
interrogatories, or authenticated documents, as provided in Rule 56(e),
that contradict the facts shown in the defendant's declarations and
documents and show that there is a genuine issue of material fact for
trial. If you do not submit your own evidence in opposition, summary
judgment, if appropriate, may be entered against you. If summary
judgment is granted, your case will be dismissed and there will be no
trial.**

1 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added). Defendants who fail to
2 file and serve the required *Rand* notice on plaintiff may have their motion stricken from the
3 Court's calendar with leave to re-file.

4 (6) Direct Communications with District Judge or Magistrate Judge

5 No direct communication is to take place with the District Judge or Magistrate Judge with
6 regard to this case. All relevant information and papers are to be directed to the Clerk.

7 (7) The Clerk is directed to send copies of this Order and of the Court's *pro se*
8 instruction sheet to plaintiff.

9 DATED this 1st day of June, 2017.

10
11 

12 BRIAN A. TSUCHIDA
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23